

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

Martha Bowser,

Plaintiff,

v.

Rubin & Rothman LLC; and
DOES 1-10, inclusive,

Defendants.

Civil Action No.: _____

COMPLAINT

For this Complaint, the Plaintiff, Martha Bowser, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of the Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of the Plaintiff's personal privacy by the Defendants and their agents in their illegal efforts to collect a consumer debt.

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, Martha Bowser ("Plaintiff"), is an adult individual residing in Hamburg, New York, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. The Defendant, Rubin & Rothman LLC ("Rubin & Rothman"), is a New York

business entity with an address of 1787 Veterans Highway, Suite 32, Islandia, New York 11749, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Rubin & Rothman and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Rubin & Rothman at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

8. The Plaintiff incurred a financial obligation in the approximate amount of \$3,116.89 (the “Debt”) to a creditor (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Rubin & Rothman for collection, or Rubin & Rothman was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. Rubin & Rothman Engages in Harassment and Abusive Tactics

12. Upon having received a collection notice from Rubin & Rothman Plaintiff contacted Rubin & Rothman.

13. Rubin & Rothman informed Plaintiff that she owed a debt in the amount of

\$3,116.89 and requested that Plaintiff pay same.

14. Plaintiff informed Rubin & Rothman that she was not able to do so.

15. In response Rubin & Rothman threatened to file a lawsuit against Plaintiff if she failed to pay the Debt. To date, no such suit has been commenced.

16. Moreover, Rubin & Rothman threatened to garnish Plaintiff's wages and freeze her bank account if Plaintiff did not pay the Debt.

17. The above-mentioned threats caused a great deal of stress and intimidation to Plaintiff which resulted in her work productivity.

C. Plaintiff Suffered Actual Damages

18. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

19. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I
VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692, et seq.

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.

22. The Defendants' conduct violated 15 U.S.C. § 1692e in that Defendants used false, deceptive, or misleading representation or means in connection with the collection of any

debt.

23. The Defendants' conduct violated 15 U.S.C. § 1692e(4) in that Defendants threatened the Plaintiff with garnishment if the Debt was not paid.

24. The Defendants' conduct violated 15 U.S.C. § 1692e(5) in that Defendants threatened to take legal action, without actually intending to do so.

25. The Defendants' conduct violated 15 U.S.C. § 1692e(10) in that Defendants employed false and deceptive means to collect a debt.

26. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

27. The Plaintiff is entitled to damages as a result of Defendants' violations.

COUNT II
VIOLATIONS OF NEW YORK GBL § 349
ENGAGING IN UNLAWFUL DECEPTIVE PRACTICES AND ACTS

28. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully set forth herein at length.

29. The acts, practices and conduct engaged in by the Defendants and complained of herein constitute "deceptive acts and practices" within the meaning of Article 22A of the General Business Law of the State of New York, NY GBL § 349.

30. The Defendants willfully and knowingly engaged in conduct constituting deceptive acts and practices in violation of NY GBL § 349.

31. The Plaintiff has suffered and continues to suffer actual damages as a result of the foregoing acts and practices, including damages associated with, among other things, humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment caused by the Defendants.

32. By virtue of the foregoing, the Plaintiff is entitled to recover actual damages, trebled, together with reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays that judgment be awarded in the Plaintiff's favor and against the Defendants as follows:

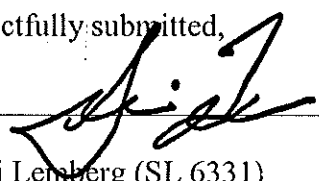
1. Against the named the Defendants, jointly and severally, awarding the Plaintiff actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Against each of the named the Defendants, awarding the Plaintiff statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
3. Against the named the Defendants, jointly and severally, awarding the Plaintiff actual damages, trebled, pursuant to NY GBL § 349;
4. Against the named the Defendants, jointly and severally, awarding the Plaintiff recovery of the costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3);
5. Against the named the Defendants, jointly and severally, awarding the Plaintiff punitive damages in such amount as is found appropriate; and
6. Granting the Plaintiff such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 5, 2012

Respectfully submitted,

By _____


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